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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,569	03/06/2006	Michiharu Tanaka	Q87581	4470
65565	7590	12/08/2009		
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WASHINGTON, DC 20037-3213				
EXAMINER				
MARC, MC'DEUNEL				
ART UNIT		PAPER NUMBER		
3664				
NOTIFICATION DATE		DELIVERY MODE		
12/08/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/533,569

**Applicant(s)**

TANAKA ET AL.

**Examiner**

MCDIEUNEL MARC

**Art Unit**

3664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/3/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date See Continuation Sheet

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :5/3/05, 3/8/06, 6/12/07, 9/24/07.

### **DETAILED ACTION**

1. Claim 1 is cancelled and claims 2-4 are pending.
2. The rejection to claims 2-4 under 35 U.S.C. 103(a) as being unpatentable over the Background Art of the specification of this application Part 2 from pages 5-6 (hereinafter Background) in view of Langford et al. (6650516 B2) is withdrawn.

The objection to figures 6 and 7 that should be labeled as --Prior Art-- is withdrawn.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re*

*Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 2-4 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 7166977. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the above patent are broader than the claims of this application.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimogama et al. (US 5,650,079).

As per claim 2, Shimogama et al. US 5,650,079 teaches a control apparatus of an automatic machine (see fig. 2, elements 1 and 7) comprising: a breaker connected to a power supply (see fig. 3, element Ssw and fig. 2, elements 2), a driving apparatus for supplying electric power of the power supply (see fig. 2, elements 2) to a driving unit of the automatic machine via a relay apparatus connected to the breaker, for controlling the driving apparatus (see figs. 5 and 7),

a current control rectifying element connected to the relay apparatus (see col. 5, element 26-33), and

a current controlling device (see fig. 2, element 30) for controlling a rectifying current of the current controlling rectifying element (see fig. 2, element R1), wherein the current controlling device (see fig. 2, element 30) causes a rectifying current of the current control rectifying element to be a reducing condition (see fig. 5, elements R1, 18 and fig. 2, element R1), and

a non-feeding condition by an instructions for turning off supplying of the electric power to the driving unit (see col. 4, lines 58-64, wherein non-feeding of the machine being taken as not continued, and the instructions has been provided by the program made by means of the controller 1 as noted above), and

a contact of the relay apparatus is opened at a predetermined time after the instruction (see fig. 2, element R1, particularly the CRb<sub>2</sub> col. 4, lines 58-64, wherein the

judging processes inherently provided the timing after the instructions in order to continue or not).

As per claim 3, Shimogama et al. US 5,650,079 teaches a system wherein the control apparatus is a robot control apparatus (see fig. 2, element 1).

As per claim 4, Shimogama et al. US 5,650,079 teaches a system wherein the relay apparatus is an electromagnetic connector (see fig. 2, element R1, wherein the coil provides the required “electromagnetic connector”).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MCDIEUNEL MARC whose telephone number is (571)272-6964. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/McDieunel Marc/**  
Examiner, Art Unit 3664  
/KHOI TRAN/  
Supervisory Patent Examiner, Art Unit 3664